

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 GREGORY HAMILTON,

Case No. 3:19-cv-00380-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 GODINEZ,

10 Defendant.

11 *Pro se* Plaintiff Gregory Hamilton brings this action under 42 U.S.C. § 1983. Before
12 the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United
13 States Magistrate Judge William G. Cobb (ECF No. 34), recommending the Court deny
14 Plaintiff’s motion for leave to file an amended complaint (ECF No. 24 (“Motion”)). Plaintiff
15 had until April 29, 2021 to file an objection. To date, no objection to the R&R has been
16 filed.¹ For this reason, and as explained below, the Court adopts the R&R, and will deny
17 the Motion.

18 The Court “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
20 fails to object to a magistrate judge’s recommendation, the Court is not required to
21 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
22 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
23 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
24 recommendations is required if, but *only* if, one or both parties file objections to the
25 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
26

27
28 ¹Plaintiff did file a document after Judge Cobb issued the R&R (ECF No. 35), but
even liberally construed, it is not an objection to the R&R.

1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there is no objection, the Court need not conduct de novo review, and is
4 satisfied Judge Cobb did not clearly err. Here, Judge Cobb recommends denying the
5 Motion in part because Plaintiff is already proceeding on a count materially identical to
6 Count I in his proposed amended complaint. (ECF No. 34 at 4.) As to Plaintiff’s proposed
7 Count II, Judge Cobb notes that Plaintiff’s allegations are insufficient to satisfy the legal
8 elements of the claims he attempts to assert. (*Id.* at 5-6.) Judge Cobb also recommends
9 Plaintiff be given an opportunity to decide whether he wishes to proceed with his claim
10 against Godinez instead of a different Corrections Officer because the only Godinez that
11 worked for the Nevada Department of Corrections (“NDOC”) appears to have left his
12 employment before the incident giving rise to this case occurred. (*Id.* at 6-7.) The Court
13 agrees with Judge Cobb. Having reviewed the R&R and the record in this case, the Court
14 will adopt the R&R in full.

15 It is therefore ordered that Judge Cobb’s Report and Recommendation (ECF No.
16 34) is accepted and adopted in full.

17 It is further ordered that Plaintiff’s motion for leave to file an amended complaint
18 (ECF No. 24) is denied.

19 It is further ordered that Plaintiff must file, by May 19, 2021, a notice with the Court
20 indicating whether he intends to pursue this action against Godinez considering the
21 Attorney General’s representation that Godinez did not work at NDOC at the time when
22 this incident allegedly took place. The Court refers Plaintiff’s anticipated notice to Judge
23 Cobb for consideration.

24 DATED THIS 6th Day of May 2021.

25
26 

27 MIRANDA M. DU
28 CHIEF UNITED STATES DISTRICT JUDGE